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UNCLAS SECTION 01 OF 03 TORONTO 000466

SIPDIS

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SENSITIVE

PASS USTR FOR SULLIVAN, MELLE, GARDE
PASS PATENT AND TRADEMARK OFFICE FOR JENNIFER NESS
USDOC FOR CATHERINE PETERS

E.O. 12958: N/A

TAGS: [ETRD](#) [KCRM](#) [KIPR](#) [PGOV](#) [CA](#)

SUBJECT: Fight Against Counterfeit Goods Boosted in Ontario

Ref: Toronto 461

Sensitive But Unclassified -- protect accordingly.

¶11. (SBU) Summary: On December 1, Toronto police seized C\$10 million in designer knock-offs on Toronto's black market. On December 4, a significant four-day anti-counterfeiting conference in the Toronto area included 120-150 law enforcement personnel, government officials, and industry representatives from across Canada. Post participation included CG's remarks describing U.S. IPR policy to the audience and several media interviews. RCMP Superintendent Ken Hanson said Canadian law enforcement officials lack formal IPR training and lack enforcement resources. Liberal federal Member of Parliament Roy Cullen described his standing committee's IPR recommendations to the Harper government and his commitment to strengthening IPR enforcement. Graham Henderson (President of the Canadian Recording Industry Association (CRIA)) told us privately that the federal government may introduce new legislation as soon as next week. An article in the November 19 edition of "Canadian Business" eloquently highlights that Canadian IPR enforcement policy does not protect small Canadian entrepreneurs. Until the landscape of IPR protection in Canada changes, only rights holders with very deep pockets, such as movie or record studios or producers of international designer labels, will be able to afford any IPR protection at the retail level in Canada. End Summary.

Police Seize C\$10 Million in Counterfeit Goods

¶12. (U) On Saturday, December 1, following a seven-month investigation called Project Chameleon, Toronto police seized C\$10 million in designer knock-offs on Toronto's black market, reportedly the biggest single counterfeiting bust ever executed in Canada. The goods, reportedly imported from mainland China, included counterfeit wallets, purses, luggage, and clothing with designer labels like Louis Vuitton, Gucci, Prada, Chanel, and Armani. Eight men were arrested in a counterfeiting ring that involved an underground manufacturing operation and distribution center using the cover of a bridal shop.

Anti-Counterfeiting Conference Trains Police

¶13. (SBU) On December 4, 120-150 law enforcement personnel, government officials, and industry representatives from across Canada attended a four-day anti-counterfeiting conference held in Markham, Ontario. Toronto Consul General was the opening speaker at

the conference, along with Liberal federal MP Roy Cullen, Vice-Chair, Standing Committee on Public Safety and National Security in the House of Commons; and Canadian Recording Industry Association (CRIA) President Graham Henderson. The conference, organized by Toronto-based lawyer Lorne Lipkus and his law firm, Kestenberg Seigal Lipkus, is one in a series he organizes several times a year across Canada. Lipkus' legal firm represents many of the designers whose copied merchandise was seized in the weekend raid in Toronto.

¶4. (SBU) The conference provides law enforcement officials and government and industry representatives with practical knowledge on investigating and conducting counterfeiting cases. Knock-off designer goods and a broad range of mass market counterfeit consumer goods such as extension cords, sneakers, and toys, were displayed at the conference. Donna Karan, Timberland, Adidas, Hockey Canada, Kenneth Cole, Calvin Klein, Vera Wang, Davidoff, and North Face also provided handouts to help officials distinguish between genuine and counterfeit goods.

Law Enforcement Lacks Resources to Enforce IPR

¶5. (SBU) RCMP Superintendent Ken Hanson told conference attendees on December 4 that Lipkus' conferences fill an important educational need for the law enforcement community because Canada lacks formal police training on investigating counterfeit merchandise. Hansen said IPR crimes are reaching epidemic proportion in Canada, and police at all levels need more resources to fight these crimes. He told the audience that the RCMP does not focus on investigations of retail counterfeit operations, instead focusing its investigative resources on large shipments, retail operations that will help them

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crack a distribution network, cases that affect public health and safety (such as counterfeit pharmaceuticals and unsafe electrical equipment), or cases affecting national security. He noted that this approach is similar to the strategy the RCMP uses to prioritize illicit drug investigations.

¶6. (SBU) Hansen said the RCMP expects the private sector to use tools such as Anton Piller orders (a court order for search and seizure of evidence) or cease and desist orders to combat retail-level counterfeit activities. Hansen said that with stronger IPR legislation and greater financial and manpower resources, the RCMP and other Canadian police forces would be able to more effectively deal with the organized crime rings that profit from counterfeiting.

Federal Parliament Recommends Action

¶7. (SBU) Liberal federal MP Roy Cullen, a Toronto-area MP, told the group that the Standing Committee on Public Safety and National Security has asked the Harper Government to amend the Trademark Act, the Copyright Acts, and the Customs Act, to better protect IPR in Canada. He called for a change in mandate for the Canada Border Services Agency (CBSA) to allow Canadian border officials to seize and destroy counterfeit goods on entry into the country. He also called for better cooperation between Canada and the U.S. on IPR issues, and suggested the government conduct a public awareness campaign to teach consumers how to identify counterfeit goods and explain how organized crime profits from IPR violations. Cullen said he hopes that Industry Minister Prentice will make IPR a higher priority than his predecessor. He said he recommends formation of a high-level Assistant Deputy Minister (ADM) Committee to advance IPR policy across ministries in Ottawa.

¶8. (SBU) Cullen noted that his committee had focused on the public safety aspects of IPR, while the House Standing Committee on Industry, Science and Technology had focused on the economic aspects of IPR and has forwarded specific recommendations to the federal government. The government's response to the committee reports largely agreed with the findings and pledged government efforts to

increase IPR enforcement, update Canada's copyright laws, and work with international partners to address counterfeiting on a global level.

CRIA President Calls for IPR Policy Reform

¶9. (SBU) CRIA President Graham Henderson emphasized that IPR is the backbone of innovation, and that public policy must protect IPR, both federally and provincially. He pointed to the recent report issued by the Ontario Chamber of Commerce (OCC), "Protection of Intellectual Property: A Case for Ontario," (reftel) as a roadmap for provincial IPR policy reform. Henderson emphasized his belief that counterfeiting and piracy cost the Canadian economy at least US\$22.5 billion per year, US\$9 billion of which likely is lost in Ontario alone (ref (A)). Henderson said that public tolerance for copyright violations inhibits IPR protection in Ontario, and Canada as a whole. A recent poll indicated that infringing copyright laws by illegal downloading or through buying pirated movies was considered more acceptable to Canadians than was stealing office supplies from work. He echoed Cullen's recommendation that the federal government establish a high level inter-departmental committee to coordinate IPR policy across government agencies.

Canadian IPR Policy Does Not Protect Entrepreneurs

¶10. (U) An article in the November 19 edition of "Canadian Business" eloquently highlights that Canadian IPR enforcement policy does not protect small Canadian entrepreneurs. The article discussed a British Columbia entrepreneur who designed a rubberized lifting strap that allows weightlifters to lift more by giving them a better grip. He patented the product, but comparable products have begun popping up on the market. Without the financial backing to launch a legal challenge, the patents are a moot point. The article ends by quoting the entrepreneur, "'I'm starting to consider abandoning the patent route,' says McBride. 'One thing I've learned is that it might not be worth the time and expense. And unless you have millions to fight it, you don't really have any protection.'"

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¶11. (SBU) Comment: Cullen and Henderson were optimistic that progress to improve IPR protection is being made in Ottawa. Henderson told us privately that the federal government may introduce new legislation addressing the findings of the standing committees as soon as next week. Improving the legal framework for IPR protection is important. Additional law enforcement resources and public education about IPR protection are also needed. Until the landscape of IPR protection in Canada changes, only rights holders with very deep pockets, such as movie or record studios or producers of international designer labels, will be able to afford IPR protection at the retail level in Canada. End Comment.

NAY